

PATRICK HENRY

(1736–1799)



How me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men without a consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.

—Patrick Henry, 1788



Introduction

Patrick Henry's fame rested largely on his oratorical skills, which he employed in the cause of liberty. Henry was one of the most persuasive speakers of his time. His oratory differed from that typical of the period in that Henry rarely made allusions to classical texts. Instead, imitating the revivalist preachers he had heard as a boy during the Great Awakening, he filled his speeches with Biblical allusions and Christian symbolism. Henry's persuasive speaking style converted the hearts of many. At the same time, however, his abrasive nature could alienate others. After battling Henry on revisions to the Virginia constitution, Thomas Jefferson became exasperated. "What we have to do I think," Jefferson suggested to James Madison, "is devoutly to pray for his death."

Henry was an articulate spokesman for American liberty during the crisis with Great Britain. After the United States won independence, he became a leading Anti-Federalist and opponent of the new Constitution. Henry feared that the new government would destroy individual rights and the authority of the states. His insistence that a bill of rights at least be attached to the document did much to make the first ten amendments to the Constitution a reality. Henry believed his duty was to guard zealously the rights of his people. He knew that future generations of Americans would judge his efforts, and he hoped that "they will see that I have done my utmost to preserve their liberty."

Relevant Thematic Essays for Patrick Henry

- Federalism
- Freedom of Religion
- Limited Government (Volume 2)

In His Own Words:

PATRICK HENRY

ON THE CONSTITUTION

Overview

In this lesson, students will learn about Patrick Henry. They should first read as background homework **Handout A—Patrick Henry (1736–1799)** and answer the **Reading Comprehension Questions**. After discussing the answers to these questions in class, the teacher should have the students answer the **Critical Thinking Questions** as a class. Next, the teacher should introduce the students to the primary source activity, **Handout C—In His Own Words: Patrick Henry on the Constitution**, in which Henry warns the members of the Virginia Ratifying Convention that the new Constitution will produce tyranny in the United States. As a preface, there is **Handout B—Context Questions**, which will help the students understand the document.

Students will be divided into five groups, each of which will paraphrase a section of the document in one to two sentences. They will then jigsaw into new groups, and each group will present a one-minute version of Henry's speech that retains the main ideas of the original. There are **Follow-Up Homework Options** that ask the students to compose a response to Henry's speech by a defender of the Constitution and to examine the use of fear and sarcasm in Henry's speeches. **Extensions** provides opportunity for thought as students are asked to compose a speech in the style of Henry about a contemporary issue which they have researched.

Objectives

Students will:

- explain why Henry is often called “The Orator of Liberty”
- understand Henry's role in the American independence movement
- explain Henry's objections to the Constitution
- analyze Henry's speaking style

Standards

CCE (9–12): IIA1, IIC1, IIIA1, IIIA2
NCHS (5–12): Era III, Standards 3A, 3B
NCSS: Strands 2, 5, 6, and 10

Materials

Student Handouts

- Handout A—Patrick Henry (1736–1799)
- Handout B—Context Questions
- Handout C—In His Own Words: Patrick Henry on the Constitution

Additional Teacher Resource

- Answer Key

Recommended Time

One 45-minute class period.
Additional time as needed for homework.

LESSON PLAN



I. Background Homework

Ask students to read **Handout A—Patrick Henry (1736–1799)** and answer the Reading Comprehension Questions.



II. Warm-Up [10 minutes]

- A. Review answers to homework questions.
- B. Conduct a whole-class discussion to answer the Critical Thinking Questions.
- C. Ask a student to summarize the historical significance of Patrick Henry.

Patrick Henry was one of the most radical leaders of the opposition to British tyranny. He became famous for his speech during the Parson's Cause of 1763 in which he denounced British misrule in Virginia. He also spoke out against the Stamp Act, claiming that only the Virginia legislature possessed the power to tax Virginia's citizens. During the American Revolution and soon after independence, Henry served in the state legislature and as governor of Virginia. He was a leading opponent of the proposed Constitution of 1787, which he feared would establish tyranny in the United States. Henry wanted a bill of rights added to the document, but he opposed as inadequate the twelve amendments sent to the states in 1789.



III. Context [5 minutes]

Briefly review with students the main issues involved in the debate between Federalists and Anti-Federalists. (The Federalists believed that the confederation would break up if the Constitution was not ratified. Anti-Federalists feared that a stronger central government would endanger the rights of the people.)



IV. In His Own Words [25 minutes]

- A. Distribute **Handout B—Context Questions**.
- B. Divide the class into five equal groups. Give each group one of the pages of **Handout C—In His Own Words: Patrick Henry on the Constitution**. Be sure that the students understand the vocabulary and the “who, what, where, and when” of the document.
- C. Each group will be given the job of paraphrasing its assigned passage in one to two sentences that convey Henry's main idea. Below each passage of Henry's speech are aids for understanding the document: vocabulary words and their definitions, a list of relevant sections of the Constitution, and clues to understanding the passage.
- D. Once all groups believe that they understand their assigned passage, jigsaw into five new groups (regroup the students so that each new group contains at least one “expert” from each of the original groups).
- E. Tell each student to imagine that he or she is Patrick Henry and has been given one minute to deliver a speech at the Virginia Ratifying Convention. Give each group the task of editing the entire five-paragraph speech so that when read aloud, it takes no longer than one minute. Students should edit the speech sentence by sentence; that is, they should delete entire sentences, leaving complete sentences. Remind the students that they should retain the five main ideas that comprise the speech.
- F. Once the groups have edited the speech to one minute, have each group select its best speaker to deliver its version to the entire class. Remind the speakers that Henry used emotion when making his speeches.

LESSON PLAN



V. Wrap-Up Discussion [5 minutes]

After each speaker has given his or her group's speech, conduct a large-group discussion to determine which group did the best job of summarizing the five main points of Henry's speech. List these five main points on the board, making sure that the students understand them.



VI. Follow-Up Homework Options

- A. Tell the students to imagine that they are delegates to the Virginia Ratifying Convention who favor the Constitution. Have each student compose a page-long response to Henry's speech that addresses each of Henry's five main points.
- B. Using both **Handout A** and **Handout C**, have the students highlight phrases or sentences uttered by Henry in which he most successfully employs fear to arouse his listeners. Also have the students underline phrases or sentences in which Henry employs sarcasm to attack his opponents.



VII. Extensions

In his speech to the Virginia Ratifying Convention, Henry warned that some Americans wished to build a powerful empire at the expense of the people's liberty. Some people today, echoing Henry, have argued that recent presidents have sought to expand the influence of the United States at the expense of the freedom of Americans. Have the students find a news article or editorial in which someone—a news commentator, government official, political candidate, etc.—makes such an argument. Then have the students compose a one-paragraph speech about the issue in the style used by Patrick Henry.

LESSON PLAN

Resources

Print

- Beeman, Richard. *Patrick Henry: A Biography*. New York: McGraw-Hill, 1974.
- Mayer, Henry. *A Son of Thunder: Patrick Henry and the American Republic*. Reprint. New York: Grove Press, 2001.
- McCants, David A. *Patrick Henry: The Orator*. New York: Greenwood Press, 1990.
- Meade, Robert Douthat. *Patrick Henry*. 2 vols. Philadelphia: Lippincott, 1957–1969.
- Vaughan, David J. *Give Me Liberty: The Uncompromising Statesmanship of Patrick Henry*. Nashville, TN: Cumberland House, 1997.

Internet

- Red Hill, Patrick Henry National Memorial. <<http://www.redhill.org/>>.
- “Give Me Liberty or Give Me Death.” The Avalon Project at Yale University Law School. <<http://www.yale.edu/lawweb/avalon/patrick.htm>>.
- “Patrick Henry.” U.S. History.org. <<http://www.ushistory.org/declaration/related/henry.htm>>.
- “Patrick Henry.” The American Revolution.org. <<http://theamericanrevolution.org/people/phentry.asp>>.
- “Meet the People: Patrick Henry.” Colonial Williamsburg Foundation. <<http://www.history.org/Almanack/people/bios/biohen.cfm>>.

Selected Works by Patrick Henry

- “Give Me Liberty or Give Me Death”: Speech of March 23, 1775, to the Second Continental Congress
- Speech of June 5, 1788, in the Virginia Ratifying Convention

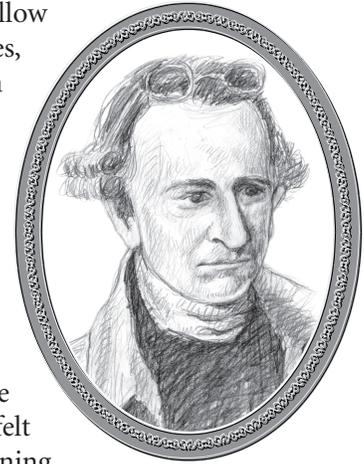
PATRICK HENRY (1736–1799)

I know not what course others may take; but as for me, give me liberty or give me death.

—Patrick Henry, 1775



Patrick Henry's imposing figure and confident voice commanded his fellow delegates' attention. Standing six feet tall and possessing flashing blue eyes, the fifty-two-year-old, self-taught lawyer had already earned a reputation in the state as a powerful speaker. As Virginia's leaders gathered in 1788 to consider ratification of the Constitution, Henry's opposition echoed through the hall. He warned that approval of the document would create a too-powerful central government that would eventually degenerate into a tyranny. "Away with your president!" Henry thundered. "We shall have a king: the army will salute him monarch; your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue?" Henry's words were passionate and powerful, so much so that one delegate confessed that he felt imaginary iron shackles close around his hands as Henry spoke his warning.



Background

By all accounts, Patrick Henry was not a hard worker. Thomas Jefferson once called him "the laziest man in reading I ever knew." Born in 1736 in Hanover County, Virginia, he was schooled mostly by his father, who expected him to be a farmer. Henry had little interest in either academics or farming. He was spellbound, however, by the revivalist Christian preachers who came to his town during the 1740s and 1750s. Their fiery oratory had a lasting effect on the young Henry.

When he was twenty-one years old, Henry and his brother became the owners of a general store that their father had established for them. But the brothers were poor businessmen. Within a year, the store had gone bankrupt. Henry married and tried his hand at farming and, for a second time, at storekeeping. Neither venture was successful. He then decided to teach himself the law. After studying for only a few weeks, Henry was admitted to the Virginia bar in 1760 at the age of twenty-three.

The Parson's Cause

Three years later, Henry argued a case that became known as the "Parson's Cause." In 1758, the Virginia House of Burgesses had passed the Two-Penny Act. This law had the effect of lowering drastically the salaries of the Virginia clergy, which were paid by wealthy Virginia planters. When the parsons protested to the king, the British government repealed the Two-Penny Act.

Several clergymen filed lawsuits to collect the money they had lost since the passage of the Two-Penny Act. They won their cases. In the Parson's Cause of 1763, Henry was hired by a group of planters to argue their side when a jury was deciding the amount of money owed to a parson. Henry took advantage of the opportunity to make an hour-long speech denouncing the king's repeal of the Two-Penny Act as "an instance of misrule" and perhaps tyranny. The king, he declared, should not interfere with Virginia's right to make its own laws.

Henry's bold speech caused some in the courtroom to whisper that the lawyer's words were treasonous. But Henry's words persuaded the jury, who awarded the parson a mere penny in damages. After court was adjourned, most observers, who resented the king's interference in Virginia's affairs, cheered Henry. Several men hoisted Henry onto their shoulders and carried him to a local tavern, where they celebrated the victory for American liberty with vast amounts of liquor. In the course of an hour, Henry had made a name for himself in Virginia.

Tyranny and Revolution

In 1765, Henry was elected to the Virginia House of Burgesses. There he added to his fame by opposing the Stamp Act of 1765. Passed by the British Parliament, this law in effect placed a tax on legal documents, newspapers, and playing cards produced in the colonies. Henry introduced a series of resolutions to the House, one of which asserted that "the General Assembly of this Colony have the only and sole exclusive Right & Power to lay . . . taxes upon the Inhabitants of this Colony." Again, Henry was not afraid of being labeled a traitor. "If this be treason," he thundered, "make the most of it!"

By the 1770s, Henry had emerged as one of the most radical leaders of the opposition to British tyranny. In 1774, he represented Virginia at the First Continental Congress. The following year, Henry attended the second Virginia Convention. At St. John's Church in Richmond, he urgently advised his fellow Virginians to take arms against the British. "Gentlemen may cry 'Peace! Peace!' but there is no peace," Henry intoned. "The war is actually begun!" He closed his speech with the now legendary words: "I know not what course others may take; but as for me, give me liberty or give me death."

Henry's call to arms succeeded in drowning out the voices of those reluctant to go to war. Governor Lord Dunmore so feared the discontented colonists that he ordered the removal of the gunpowder from the Williamsburg Magazine and had it loaded onto a British ship. In response, Henry threatened to use the Virginia militia to reclaim Virginia's property. In the end, the governor paid the colony for the powder.

In 1776, Virginia and the other colonies declared their independence from Great Britain. Henry served as the first governor of Virginia from 1776 to 1779. He then served in the Virginia House of Delegates from 1780 to 1784. As a member of the legislature, he championed a bill that would have required a tax for the general support of the Christian religion. But James Madison, also a member of the legislature, succeeded in defeating the proposal and winning passage of the Statute for Religious Freedom. This act provided for the separation of church and state in Virginia. In 1784, Henry was elected again to the governorship for a two-year term.

The Virginia Convention

In 1787, Henry received an invitation to participate in a convention whose purpose was to revise the Articles of Confederation. Saying he "smelled a rat," Henry refused to attend what became the Constitutional Convention. He feared that the meeting was a plot by the powerful to construct a strong central government of which they would be the masters.

When the new Constitution was sent to Virginia for ratification in 1788, Henry was one of its most outspoken critics. Deeming liberty the "direct end and foundation" of government, Henry warned that the new Constitution would create a "consolidated" government in which power would be concentrated in the hands of a few. The document did not provide for adequate checks and balances and therefore did not protect the people against evil rulers. Henry was concerned that the Constitution also gave the central government the power of direct taxation. It also created a standing army, which Henry feared a power-hungry president could use to awe the people into submission.

Henry wondered aloud why the Constitution did not include a bill of rights. “Is it because it will consume too much paper?” he asked sarcastically. Henry believed that the absence of a bill of rights was part of the attempt by the few to amass power. The arguments of Henry and other Anti-Federalists compelled Madison, the leader of the Virginia Federalists (supporters of adoption of the Constitution), to promise the addition of a bill of rights to the Constitution once the document was approved. But Henry warned his Anti-Federalist allies that Madison’s promise was an empty one. Henry’s passionate appeals, however, failed to sway the convention. After twenty-five days of heated debate, on June 26, 1788, Virginia became the tenth state to ratify the Constitution.

A Respected Statesman

Henry refused to serve in the new government. “Some of its leading principles,” he told a friend, “are subversive of those to which I am forever attached.” But Henry did not give up the fight for liberty. He continued to call for a bill of rights, and his efforts forced Madison, who was a candidate for a congressional seat, to promise voters that he would work to add a bill of rights to the Constitution.

In 1789, the first Congress of the United States sent a list of twelve amendments to the states. Henry believed that these amendments did not adequately safeguard the rights of the people and the states. He therefore did not support them, instead calling for a new convention to revise the Constitution. Nevertheless, Virginia approved all twelve amendments, and ten of these were ratified by the required number of states and added to the Constitution in 1791. These ten amendments became known as the Bill of Rights.

Thwarted in his efforts to put together a second Constitutional convention, Henry returned to his plantation at Red Hill, Virginia. There he resumed his law practice. Unlike most former Anti-Federalists, Henry did not join the Republican Party formed by Thomas Jefferson and James Madison in the 1790s. He disliked both men and, as a devout Christian, was disgusted by the enthusiasm of many Republicans for the atheistic French Revolution.

Nor did Henry immediately ally himself with the new Federalist Party, which included most members of the Washington administration. In 1795 and 1796, Henry turned down offers from George Washington first to serve as secretary of state and then chief justice of the supreme court. President Washington, however, did persuade Henry to run for election for a seat in the Virginia legislature in 1799. Henry won the election but died before the legislature formally convened.



Reading Comprehension Questions

1. Why did Henry refuse to attend the Constitutional Convention in 1787?
2. What were Henry’s objections to the Constitution?
3. Why did Henry, unlike most former Anti-Federalists, refuse to join the Republican Party?

Critical Thinking Questions

4. In what way are the arguments made by Henry in the Parson’s Cause and in his resolutions against the Stamp Act similar?
5. Some have referred to Henry’s “Give Me Liberty or Give Me Death” speech of 1775 as “the first shot” of the Revolutionary War. Why?

CONTEXT QUESTIONS

Excerpts from Patrick Henry's Speech of June 5, 1788, in the Virginia Ratifying Convention

Answer the following questions.

- a. When was this document written?
- b. Where was this document written?
- c. Who wrote this document?
- d. What type of document is this?
- e. What was the purpose of this document?
- f. Who was the audience for this document?

IN HIS OWN WORDS: PATRICK HENRY ON THE CONSTITUTION

Excerpts from Patrick Henry's Speech of June 5, 1788, in the Virginia Ratifying Convention

Directions: Each group should paraphrase its assigned passage in one to two sentences that convey Henry's main idea. Below each passage of Henry's speech are aids for understanding the document.

1. Majority Rule

This, sir, is the language of democracy—that a majority of the community have a right to alter government when found to be oppressive. But how different is the genius of your new Constitution from this! How different from the sentiments of freemen that a contemptible minority can prevent the good of the majority! . . . If, sir, amendments are left to the twentieth, or tenth part of the people of America, your liberty is gone for ever. . . . It will be easily contrived to procure the opposition of the one-tenth of the people to any alteration, however judicious. . . .

Vocabulary:

- a. genius = nature
- b. contemptible = disgraceful
- c. contrived = arranged
- d. procure = obtain
- e. alteration = change
- f. judicious = sensible

Relevant Section(s) of the Constitution:

Article V: Amendment Process

Clues to Understanding the Passage:

The amendment process states that the approval of three fourths of the states is necessary for any proposed amendment to be enacted. In a union of thirteen states, an amendment would require the approval of ten states. The opposition of any four states—even those with small populations—would kill an amendment.

Source: Speech made on June 5, 1788, in the Virginia Ratifying Convention. The American Revolution.org. <<http://theamericanrevolution.org/ipeople/pherry/pherryspeech1.asp>>.

IN HIS OWN WORDS: PATRICK HENRY ON THE CONSTITUTION

Excerpts from Patrick Henry’s Speech of June 5, 1788, in the Virginia Ratifying Convention

2. A Standing Army

A standing army we shall have, also, to execute the execrable commands of tyranny; and how are you to punish them? Will you order them to be punished? Who shall obey these orders? Will your mace-bearer be a match for a disciplined regiment? In what situation are we to be? The clause before you gives . . . an exclusive power of legislation, in all cases whatsoever, for ten miles square, and over all places purchased for the erection of forts, magazines, arsenals, dockyards, etc. What resistance could be made? The attempt would be madness. . . .

Vocabulary:

- a. execrable = repulsive
- b. mace = a primitive weapon
- c. regiment = a unit of soldiers in the army
- d. arsenal = place where weapons are stored

Relevant Section(s) of the Constitution:

- Article I, Section 8, Clause 12: “[The Congress shall have the power] to raise and support armies.”
- Article I, Section 8, Clause 17: “[The Congress shall have the power] to exercise exclusive legislation in all cases whatsoever, over . . . the seat of the government of the United States.”

Clues to Understanding the Passage:

Americans traditionally feared a “standing army,” a permanent force consisting of professional, paid soldiers. Instead, most Americans favored defending their country with militia, part-time citizen-soldiers.

Source: Speech made on June 5, 1788, in the Virginia Ratifying Convention. The American Revolution.org. <<http://theamericanrevolution.org/ipeople/pherry/pherryspeech1.asp>>.

IN HIS OWN WORDS: PATRICK HENRY ON THE CONSTITUTION

Excerpts from Patrick Henry's Speech of June 5, 1788, in the Virginia Ratifying Convention

3. Liberty vs. Empire

If we admit this consolidated government, it will be because we like a great, splendid one. Some way or other we must be a great and mighty empire; we must have an army, and a navy, and a number of things. When the American spirit was in its youth, the language of America was different; liberty, sir, was then the primary object. . . . But now, sir, the American spirit, assisted by the ropes and chains of consolidation, is about to convert this country into a powerful and mighty empire. If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your government will not have sufficient energy to keep them together. Such a government is incompatible with the genius of republicanism. . . .

Vocabulary:

- a. consolidated = powerful
- b. splendid = magnificent
- c. convert = change
- d. sufficient = enough
- e. incompatible = unable to coexist
- f. genius = nature

Relevant Section(s) of the Constitution:

Henry is referring to many passages of the Constitution, and in particular to the following clauses:

- Article I, Section 8, Clause 12: “[The Congress shall have the power] to raise and support armies.”
- Article I, Section 8, Clause 13: “[The Congress shall have the power] to provide and maintain a navy.”

Clues to Understanding the Passage:

Opponents of the Constitution often charged that the document would create a consolidated government—one in which too much power would be concentrated in the central government and too little power would be given to the states. Henry voiced the concerns of many Americans that liberty and empire were incompatible. (Note that in the second sentence Henry is being sarcastic.)

Source: Speech made on June 5, 1788, in the Virginia Ratifying Convention. The American Revolution.org. <<http://theamericanrevolution.org/people/pherry/pherryspeech1.asp>>.

IN HIS OWN WORDS: PATRICK HENRY ON THE CONSTITUTION

Excerpts from Patrick Henry's Speech of June 5, 1788, in the Virginia Ratifying Convention

4. Good and Bad Rulers

This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. . . . It is on a supposition that your American governors shall be honest that all the good qualities of this government are founded; but its defective and imperfect construction puts it in their power to perpetrate the worst of mischiefs should they be bad men; and, sir, would not all the world, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men without a consequent loss of liberty! I say that the loss of that dearest privilege has ever followed, with absolute certainty, every such mad attempt.

Vocabulary:

- a. supposition = assumption
- b. perpetrate = commit
- c. mischiefs = harm
- d. distracted folly = unthinking foolishness
- e. contingency = possibility
- f. consequent = resulting

Relevant Section(s) of the Constitution:

Henry is referring in general to the powers given to members of the legislative, executive, and judicial branches in Articles I, II, and III, respectively.

Clues to Understanding the Passage:

Opponents of the Constitution charged that the document did not include enough checks on the powers of those who held federal office.

Source: Speech made on June 5, 1788, in the Virginia Ratifying Convention. The American Revolution.org. <<http://theamericanrevolution.org/ipeople/phentry/phentryspeech1.asp>>.

IN HIS OWN WORDS: PATRICK HENRY ON THE CONSTITUTION

Excerpts from Patrick Henry's Speech of June 5, 1788, in the Virginia Ratifying Convention

5. The President, a Tyrant

If your American chief be a man of ambition and abilities, how easy is it for him to render himself absolute! . . . If we make a king we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them; but the president, in the field, at the head of his army, can prescribe the terms on which he shall reign master. . . . Can he not, at the head of his army, beat down every opposition? Away with your president! We shall have a king; the army will salute him monarch; your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue?

Vocabulary:

- a. ambition = determination to have fame or power
- b. render = make
- c. absolute = total
- d. prescribe = set down
- e. interpose = to put between
- f. infringing = violating
- g. reign = rule as
- h. despotism = tyranny
- i. ensue = follow, develop

Relevant Section(s) of the Constitution:

Henry is referring to the powers given to the president in Article II and particularly to the following passage:

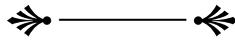
- Article II, Section 2, Clause 1: "The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

Clues to Understanding the Passage:

Many opponents of the Constitution feared that the president would become a king.

Source: Speech made on June 5, 1788, in the Virginia Ratifying Convention. The American Revolution.org. <<http://theamericanrevolution.org/ipeople/phentry/phentryspeech1.asp>>.

FEDERALISM



By the time the delegates to the Constitutional Convention had gathered in Philadelphia in 1787, the American people had been accustomed for more than one hundred and fifty years to having most of their affairs managed first within the colonies and then in independent states. It was not surprising that the Articles of Confederation, the initial constitutional system for “The United States of America,” affirmed in its first article the general “sovereignty, freedom and independence” of the states. Beyond historical precedence, the commitment to state sovereignty drew support from sixteenth- and seventeenth-century theorists such as Jean Jacques Rousseau who argued that the habits and virtues needed by a self-governing people can be cultivated only in small republics. In short, history and theory seemed to be on the side of a confederation of small American republics or states.

If the American people were inclined to favor state sovereignty, they also were interested in comfortable preservation—that is, in the enjoyment of both “safety and happiness,” to borrow from the Declaration of Independence. By the mid-1780s, it was clear to many Americans that state sovereignty created obstacles to comfortable preservation, not the least being the impediments to a smooth-functioning commercial system. Concerns about the effects on the country of competing fiscal and commercial policies in the different states led to the Annapolis Convention of 1786. While the delegates to this convention did not come up with a specific plan for fixing the commercial system, they petitioned the confederation congress to arrange for a constitutional convention that would reconsider the Articles of Confederation with the aim of improving interstate commerce.

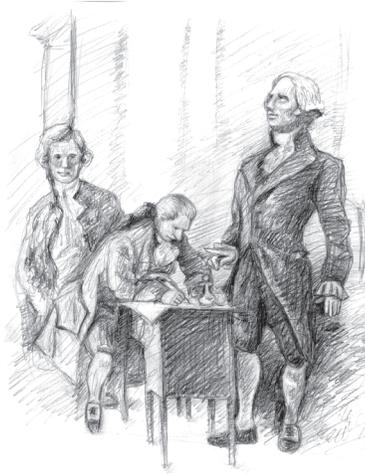
James Madison, one of seven delegates chosen to represent Virginia at the Constitutional Convention of 1787, prepared a document on the history of confederacies during the months preceding the meeting. Events such as Shays’s Rebellion in Massachusetts and disputes over the

commercial use of the Potomac River, along with his study of history, convinced him that a system based on state sovereignty was destined to fail. Madison worked with other members of the Virginia delegation on a plan for a basically national, rather than confederal, system of government. In addition to provisions for separate

legislative, executive, and judicial branches, the “Virginia Plan” would have empowered Congress “to negative all laws passed by the several States, contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof.” The Virginia Plan proposed a national government that would be legally and functionally supreme over the states.

According to Madison, only a national system would be capable of protecting the fundamental interests and rights of the American people. Other delegates at the convention disagreed. Roger Sherman of Connecticut, for example, argued that “the objects of Union . . . were few” and that “the people are more happy [*sic*] in small than in large States.” Sherman was not alone in preferring a confederation of small republics to a national or unitary political system. Madison understood that he had to expose the weaknesses of the confederal model to save the Virginia Plan. Sherman helped him out on June 6 by conceding that some states were too small and, hence, subject to factious violence. Madison seized upon this argument. He responded that “faction & oppression” had “prevailed in the largest as well as the smallest” states, although less in the former than the latter.

The teaching for Madison was clear: large republics are more likely to provide “security for private rights, and the steady dispensation of Justice,” than small republics. This argument hit home with the delegates. Madison convinced them that what they wanted most from government, that is, protection for rights or republican liberty, could



best be achieved in a national system. Small republics, he argued, were actually bad for republican liberty, being hotbeds of factious division and violence. He summed up his position bluntly: “The only remedy is to enlarge the sphere, & thereby divide the community into so great a number of interests & parties, that in the 1st. place a majority will not be likely at the same moment to have a common interest separate from that of the whole or of the minority; and in the 2d. place, that in case they shd. have such an interest, they may not be apt to unite in the pursuit of it.” Here was the outline of the famous defense of the large republic that appears in Madison’s *Federalist Paper No. 10*.

In the end, the delegates at the Constitutional Convention settled on a plan that combined national and confederal elements. To quote *Federalist Paper No. 39*: the proposed system “in strictness” was “neither national nor a federal Constitution, but a composition of both.” Madison’s June 6 speech, however, insured that the new “compound” republic would have a national as opposed to a confederal tilt. This innovative governmental model, what came to be called the “federal” model, represented one of America’s great contributions to the science of politics according to Madison. The model’s national elements were evident not only in the creation of separate executive and judicial departments as well as proportional representation in the House of Representatives, but in the supremacy clause that affirmed that the Constitution as well as national laws enacted under its authority would constitute the supreme law of the land. The confederal elements appeared in the provision for equal state representation in the United States Senate (a feature especially desired by the small states) and state participation in the ratification of amendments. The addition of the 10th Amendment in 1791 provided added protection for state interests (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”).

The defenders of the confederal model continued their attacks on the new system during the ratification debates that followed the convention. Patrick Henry of Virginia, for example, accused the delegates to the Federal Convention of violating their authorization by

proposing to establish a “consolidated” government based on the consent of the people, rather than the states. For Henry, the new constitutional system would endanger the rights and privileges of the people along with the “sovereignty” of the states. Richard Henry Lee, one of the Anti-Federalists, shared Henry’s fear that a large republic would not be hospitable to liberty and natural rights. Like many other opponents of the Constitution, Lee also argued that republican liberty can be preserved only by a virtuous citizenry and that only small republics are capable of nurturing civic and moral virtues.

The fact that the document that issued from the Federal Convention did not include a bill of rights seemed to lend support to the charge by Patrick Henry and others that the proposed governmental

system would promote neither the happiness nor the liberty of the people. In fact, several delegates to the convention, including George Mason of Virginia and Eldridge Gerry of Massachusetts, were sufficiently troubled by the absence of a bill of rights that they departed without adding their signatures to the document. Gerry also worried that the new government would not adequately represent the people and that its powers were not well defined. When it was clear that the opponents of the plan would not accept the argument that the framework set out by the delegates provided for a limited government of enumerated powers that would be incapable of emasculating natural rights and liberties, an agreement was reached during the ratification period to add amendments that would guarantee, among other things, freedom of speech and religion, trial by one’s peers, and protection against unreasonable searches and seizures.

The federal system or compound republic crafted by the Framers was an ingenious response to the demand for both effective or competent government on the one side, and rights-sensitive government on the other. The decision to divide power among (federalism) and within (checks and balances) several governments positioned the American people to enjoy the benefits of a large republic (e.g., strong defense against foreign encroachments, national system of commerce, etc.) while still retaining significant control over their day-to-day affairs within the states. The states, and not the national government, were entrusted with the “police powers,” that is, the

Madison convinced them that what they wanted most from government, that is, protection for rights or republican liberty, could best be achieved in a national system.

authority to protect the health, morals, safety and welfare of the people. It is worth noting that Madison was quite content to entrust the police powers to the states—he never desired that the United States have a unitary system of government.

Ratification of the Constitution in 1791 hardly put an end to the debate between the advocates of state sovereignty or small republicanism and the proponents of national sovereignty and the large republic. The concerns of James Madison and Patrick Henry, for example, are never far from the surface of contemporary debates about the power of the federal government to impose regulations on the states under the Constitution's commerce

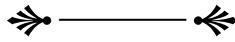
clause or the Fourteenth Amendment. There is considerable evidence, however, that the tension between these positions not only adds vitality to the constitutional system, but has been critically important to the advancement of both national security and equality in the enjoyment of fundamental rights. The federal arrangement that was crafted by the delegates at the Federal Convention of 1787 has long been recognized as one of the principal models of a modern democratic system of government.

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FREEDOM OF RELIGION



A sound understanding of the United States requires an appreciation of the historical commitment of the American people to certain fundamental liberties. High on the list of these liberties is freedom of religion. The image of brave seventeenth-century English Puritans making the difficult journey across the Atlantic to American shores in pursuit of the freedom to live according to their faith is a powerful part of the American myth. Less remembered, however, is the fact that the commonwealth established by the Puritans was as intolerant as Anglican England, from which they had fled. Indeed, the road to achieving full religious liberty in the United States was long and arduous. By the time of the writing of the United States Constitution in 1787, Americans were committed to the principle of religious tolerance (or, to use the term of the time, “toleration”) and the idea of separation of church and state, but only to a limited degree. It would be another five decades before all states granted broad religious liberty to their citizens and provided for the complete separation of church and state.

Modern ideas about freedom of religion were developed in the wake of the Protestant Reformation of the sixteenth century, which shattered the unity of Christendom and plunged Europe into political and religious conflict. Though some European states remained religiously homogeneous, either retaining the traditional faith of Roman Catholicism or adopting some brand of Protestantism, religious division within many countries led to discord and bloodshed. In England, the church established in the mid-sixteenth century by King Henry VIII (who reigned from 1509 to 1547) faced stiff resistance, first from the many Catholics who refused to abandon the faith of their ancestors, and then from the Puritans who opposed the rule of bishops and wanted to purify the church so that it included only the elect.

Henry VIII’s successors, Elizabeth I (1558–1603) and James I (1603–1625), successfully quelled opposition to the Church of England (the Anglican

Church), largely through harsh persecution of dissenters. In 1642, however, England was engulfed by religious civil war, from which the Puritans emerged victorious. The Puritan Commonwealth established by Oliver Cromwell ruthlessly persecuted Anglicans and Catholics. But Puritan rule was short-lived. An Anglican monarch, Charles II, was restored to the throne in 1660.

This “settlement” of the religious crisis, however, was threatened by the accession of a Catholic, James II, to the throne in 1685. Anxious Protestants conspired and invited a foreigner, William of Orange, to assume the kingship of England. William invaded England, drove James into exile, assumed the throne, and reestablished the Church of England as the national church.

In this contentious atmosphere some English political thinkers, such as John Locke, began to advocate a policy of religious

toleration. Locke’s ideas reflected a key assumption of Enlightenment thought—that religious belief, like political theory, is a matter of opinion, not absolute truth. “The business of laws,” Locke wrote in his *Letter on Toleration* (1689), “is not to provide for the truth of opinions, but for the safety and security of the commonwealth and of every particular man’s goods and person.” Public security was in no way dependent on a uniformity of religious belief among the citizenry. “If a Jew do not believe the New Testament to be the Word of God,” Locke stated, “he does not thereby alter anything in men’s civil rights.” Rather, intolerance led to “discord and war,” and Locke warned that “no peace and security” could be “preserved amongst men so long as this opinion prevails . . . that religion is to be propagated by force of arms.” Religious belief, in Locke’s view, was a matter of individual choice, a matter for society, not for government.

Locke’s views on religious liberty had a profound influence on American thinking in the next century. Other writings, however, particularly the Bible, had at least as great an impact on American political theory. Indeed, the American experiment in religious toleration began years before the publication of



Locke's treatise, though the early history of Puritan Massachusetts Bay was hardly indicative of the course that toleration would take in America. Established by John Winthrop in 1630, Massachusetts was a repressive place where church and state were one and where religious dissent was ruthlessly stamped out. Dissenters had few options: they could be silent, suffer persecution, or leave the colony. Roger Williams, a freethinking preacher, was forced to choose this last option, leaving Massachusetts in 1636 to establish the colony of Rhode Island.

In Rhode Island, Williams instituted toleration for all people, and his new colony quickly became a refuge for persecuted groups like Quakers and Baptists. Williams's case for toleration was at least as radical as Locke's. Basing his arguments on the Bible, Williams insisted that the Jews, Muslims, and atheists were also deserving of religious liberty. The only "sword" to be used in fighting their opinions was scripture itself. Intolerance was an offense to God. "An enforced uniformity of religion throughout a nation or civil state," Williams wrote in *The Bloody Tenent of Persecution* (1644), "denies the principles of Christianity." Williams argued that forced belief was not only a violation of God's law but also an unwise policy. "Enforced uniformity (sooner or later) is the greatest occasion of civil war, ravishing of conscience, persecution of Christ Jesus in his servants, and of the hypocrisy and destruction of millions of souls."

Two years before the founding of Rhode Island, Cecil Calvert founded the colony of Maryland and proclaimed toleration for all Christians. Calvert himself was a Catholic, but he knew that the viability of his colony depended on luring enough Protestant settlers to make it an economic success. A policy of toleration, he hoped, would serve this purpose. In setting up Pennsylvania in the 1680s, William Penn, a Quaker, followed a similar course, making his colony a haven not only for his fellow coreligionists, but, like Rhode Island, a refuge for people of all religious sects.

Pennsylvania and Rhode Island would preserve uninterrupted their traditions of religious liberty, but in Maryland, freedom of religion would be curtailed for Catholics once Protestants came to power in the last decade of the seventeenth century. Still, the idea that some degree of religious liberty was a healthful policy for government became

firmly rooted in America by the eighteenth century. Americans learned from the example of seventeenth-century England that religious persecution was ultimately detrimental to the political, social, and economic welfare of the nation. In America, where the Christian sects were more numerous than in England, the repercussions of religious intolerance would be especially adverse to the nation's prospects. Americans' devotion to religious freedom, then, was a product of necessity and experience as well as reason.

The crisis of empire during the 1760s and 1770s served to strengthen the American commitment to religious liberty. It was not only the intrusive economic measures passed by Parliament during these years that alarmed Americans. Patriot leaders also warned of the danger of the Anglican

Church's interference in American religious affairs. There was much talk that the British government would install a bishop in America who would become the instrument of tyranny. This idea that political and religious liberty went hand in hand was reflected in the New York Constitution of 1776, which explicitly connected "civil tyranny" with "spiritual oppression and intolerance."

Nearly all the state constitutions written during the American independence movement reflected a commitment to some degree of religious liberty. The Massachusetts Constitution of 1780 promised that "no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience." The Virginia Declaration of Rights of 1776, authored by George Mason, proclaimed "That Religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and conviction, not by force or violence." Mason's ideas mirrored Locke's belief that government should not intrude upon the concerns of society.

But many states limited religious liberty to Christians in general, or to Protestants in particular. The North Carolina Constitution of 1776 decreed "That no person, who shall deny the being of God or the truth of the Protestant religion . . . shall be capable of holding any office or place of trust or profit in the civil department within this State." Similarly, the New Jersey Constitution of the same year declared that "there

Locke warned that "no peace and security" could be "preserved amongst men so long as this opinion prevails . . . that religion is to be propagated by force of arms."

shall be no establishment of any one religious sect in this Province, in preference to another,” but promised Protestants alone full civil rights. Thanks largely to the efforts of Charles Carroll of Carrollton, a Roman Catholic, Maryland’s Revolutionary Constitution was more liberal in its guarantee of religious liberty to “all persons, professing the Christian religion.”

The Protestant majority in America was indeed particularly concerned about the Catholic minority in its midst. Catholics constituted the largest non-Protestant creed in the country, and it was believed that Catholicism demanded loyalty to the pope above devotion to country. The connection between Catholicism and absolutism was deeply ingrained in the American Protestant mind and was a legacy of the Reformation, which Protestants saw as a period of liberation from the ignorance, superstition, and tyranny of the Roman Catholic Church. During the crisis with England, a wave of religious hysteria swept over American Protestants, who worried that the pope would personally lead the Catholics of Canada in a military assault on American forces. “Much more is to be dreaded from the growth of Popery in America,” patriot leader Samuel Adams asserted in 1768, “than from Stamp-Acts or any other acts destructive of men’s civil rights.” This bigotry caused Roman Catholics to become outspoken proponents of religious toleration and the separation of church and state. In a country dominated by Protestants, this was the only realistic course for them.

All thirteen states at the time of American independence, then, acknowledged to some degree in their constitutions the principle of religious liberty. Most also provided for some degree of separation of church and state. Several states went so far as to prohibit clergymen from holding state office, a restriction in the Georgia Constitution of 1777 that the Reverend John Witherspoon of New Jersey would famously protest. But few states provided for a complete separation of church and state, for it was believed that the government should give some support to religion in general. Though a substantial number of American elites in the late eighteenth century were not church-going Christians, nearly all believed in the God of the Old Testament, and all recognized the practical value of Christianity as a check on antisocial behavior. Many of the state constitutions written

in the era of independence, therefore, required that government give some support to Christianity. Though the Massachusetts Constitution guaranteed that “no subordination of any one sect or denomination to another shall ever be established by law,” it also permitted the legislature to levy taxes “for the support and maintenance of public protestant teachers of piety, religion and morality.” Similarly, the Maryland Constitution of 1776 permitted the legislature to “lay a general and equal tax for the support of the Christian religion.”

There were, however, calls for complete religious disestablishment at the state level. In Virginia, James Madison and Thomas Jefferson were two of the most prominent advocates of a strict separation of church and state. Their ideas about religious liberty were clearly influenced by John Locke and fellow Virginian George Mason. In 1785, the Virginia legislature considered a bill that would provide for public funding of Christian instruction. The measure was backed by several prominent statesmen, including Patrick Henry. But James Madison, then a member of the legislature, took the lead in opposing the bill, reminding Virginians that “torrents of blood have been spilt in the old world, by vain attempts of the secular arm, to extinguish Religious discord, by proscribing all difference in Religious opinion.” The bill was defeated, and the following year, Jefferson introduced “A Bill for Establishing Religious Freedom,” which attempted to enshrine in law the idea “that no man shall be compelled to frequent or support any religious Worship place or Ministry whatsoever.” The bill passed with minor changes.

By the time of the Constitutional Convention of 1787, there was a broad consensus regarding the proper relationship between the national government and religion: first, that the government ought not to give support to any religious sect; second, that the government ought not to require a religious test for office; third, that the government ought not to interfere with private religious practice; and fourth, that the government ought not to interfere with the right of the states to do as they wished in regard to religious establishment and religious liberty. These points of consensus were reflected in both the body of the United States Constitution and in the First Amendment, which was ratified in 1791 as part of the Bill of Rights. Article VI of the Constitution explicitly stated that

Thomas Jefferson asserted that the First Amendment created “a wall of separation between church and state.” What Jefferson meant by this term is a subject of great debate.

“no religious test shall ever be required as a qualification to any office or public trust under the United States.” The First Amendment declared that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

The right of the states to set their own policy in regard to religion was implicitly acknowledged in Article I of the Constitution, which stipulated that to be eligible to vote in elections for the United States House of Representatives, “the elector in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.” Several states at the time mandated a religious test as a requirement for the franchise, and the Constitution therefore tacitly approved such tests. In addition, the First Amendment’s prohibition against religious establishment applied explicitly to the national Congress alone. Indeed, it was not until after the American Civil War, in the incorporation cases, that the United States Supreme Court ruled that some of the restrictions placed on the federal government by the amendments also applied to the state governments.

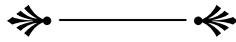
By 1800, then, there was a broad consensus among Americans that religious freedom was essential to political liberty and the well-being of the nation. During the next two centuries, the definition of freedom of religion would be broadened, as states abandoned religious tests and achieved complete disestablishment and as state and federal courts ruled that various subtle forms of government encouragement of religion were unconstitutional. Shortly after the dawn of the nineteenth century, in a letter to a Baptist congregation in Danbury, Connecticut, Thomas Jefferson asserted that the First Amendment created “a wall of separation between church and state.” What Jefferson meant by this term is a subject of great debate. But there is no doubt that his words have become part of the American political creed and a rallying cry for those who seek to expand the definition of religious liberty, even to mean that religion should be removed from public life altogether.

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LIMITED GOVERNMENT



Thomas Jefferson accurately represented the convictions of his fellow colonists when he observed in the Declaration of Independence that a government, to be considered legitimate, must be based on the consent of the people and respect their natural rights to “life, liberty and the pursuit of happiness.” Along with other leading members of the founding generation, Jefferson understood that these principles dictated that the government be given only limited powers that, ideally, are carefully described in written charters or constitutions.

Modern theorists like John Locke and the Baron de Montesquieu had been making the case for limited government and separation of powers during the century prior to the American Revolution. Colonial Americans were quite familiar with Locke’s argument from his *Two Treatises of Government* that “Absolute Arbitrary Power, or Governing without settled standing Laws, can neither of them consist with the ends of Society and Government. . . .” Locke added that the reason people “quit the freedom of the state of Nature [is] to preserve their Lives, Liberties and Fortunes.” Civil society has no higher end than to provide for the safety and happiness of the people, and this is best done under a system of known rules or laws that apply equally to “the Rich and Poor, . . . the Favorite at Court, and the Country Man at plough.” For his part, Montesquieu argued that only where governmental power is limited in scope, and then parceled out among different departments, will people be free from oppression. Constitutional government, for modern natural rights theorists, should be limited government dedicated to the comfortable preservation of the people—that is, to their security, freedom, and prosperity.

John Adams echoed the beliefs of many Americans when he argued that only by creating a balance of forces within the government could the people hope to escape despotism and misery. An unchecked legislature, he observed, would be capable not only of making tyrannical laws, but of

executing them in a tyrannical manner as well. In his famous draft of a constitution for the commonwealth of Massachusetts, Adams declared that the “legislative, executive and judicial power shall be placed in separate departments, to the end that it might be a government of laws, and not of men.”

This document, along with his *Defence of the Constitutions of Government of the United States of America*, containing a strong case for checks and balances in government, were well known to the delegates who attended the Constitutional Convention of 1787.



James Wilson, one of the foremost legal scholars of the founding period and a delegate from Pennsylvania at the Constitutional Convention, agreed with Adams’ insistence that the power of government should be divided to the end of advancing the peace and happiness of the

people. In the words of Wilson, “In government, the perfection of the whole depends on the balance of the parts, and the balance of the parts consists in the independent exercise of their separate powers, and, when their powers are separately exercised, then in their mutual influence and operation on one another. Each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest.”

Both the Articles of Confederation and the Constitution of the United States provided for governments with limited powers. As John Jay had discovered as America’s secretary of foreign affairs, the power of the central government was severely limited under the Articles and, hence, could be trusted to a unitary legislative department. Fear of governmental tyranny and a desire to preserve the power enjoyed by the new states resulted in the creation of a central government that could not effectively oversee interstate commerce or do other things that were critical to ensuring the safety and happiness of the people. In a letter to Edmund Randolph at the end of 1786, George Washington bemoaned the “awful situation of our affairs” which he attributed to “the want of sufficient power

in the foederal head.” Washington quickly joined the movement to create a new governmental system that was equal to “the exigencies of Union,” to quote from the instructions given the delegates to the Constitutional Convention of 1787.

The Constitution of 1787 grew out of a plan drafted largely by James Madison during the winter and spring before the Convention. The “Virginia Plan” proposed a central government that was supreme over the states. Evidence that the national government was to be entrusted with considerable power could be found in the provisions for a bicameral legislature and independent executive and judicial departments.

The delegates who attended the Constitutional Convention were sufficiently versed in modern political theory to understand that they would have to divide the power of the national government if they intended to entrust it with real authority over the lives of the people and the states. They understood the dangers of imparting considerable political power to a unitary sovereign. In this connection, there was never any doubt in their minds that they should create a government of “delegated and enumerated” powers, that is, that the government should only be entrusted with specified (enumerated) powers that derived directly from the people. While they worried about the “turbulence and follies” of democracy, they recognized that government had to be based on the consent of the people to be legitimate.

The Virginia Plan anticipated the bicameral legislature and independent executive and judicial departments found in the United States Constitution today. Building on Madison’s model, the delegates assigned responsibilities to the departments based on their peculiar characteristics. The six-year term of senators, for example, seemed to make this a proper institution to involve in foreign policy (e.g., ratification of treaties) since senators would have more time than members of the House of Representatives to acquaint themselves with international affairs and their longer terms and larger constituencies (entire states) also would give them more freedom to attend to matters other than the immediate interests of constituents back home. The House of Representatives was entrusted with the important power to initiate revenue (taxation) bills precisely because the members of

this chamber are tied so closely to the people by short terms and small districts.

In addition to matching powers and governmental responsibilities, the delegates were careful to position each department to “check and balance” the other departments. Examples are the executive’s veto power, the congressional impeachment power, and the judicial review power entrusted to the Supreme Court, the only national court formally established by the Constitution. Although in good Lockean fashion the legislative department was designed to be the preeminent department, it was still subjected to checks by the other branches of the government. Separation of powers as well as the system of checks and balances were devices for reducing the threat of governmental tyranny, not excluding legislative tyranny.

However, the constitutional arrangement, put into its final wording by Gouverneur Morris, was not driven entirely by a desire to eliminate the threat of tyrannical government. The system of separated and divided powers also was intended to promote competence in government. The president can employ his veto not only to check legislative action that he considers irresponsible, but to provoke Congress to improve a legislative enactment. The Senate can use its authority to ratify presidential nominations of cabinet officers or judges to ensure that qualified candidates are named to fill these positions.

Writing in *Federalist No. 9*, Alexander Hamilton identified the principle of separated and divided powers, along with checks and balances, as among the inventions of the new science of politics that had made republican government defensible. Madison described in *Federalist No. 51* the benefits of the governmental arrangement represented in the new Constitution: “In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.” Significantly, Anti-Federalists as well as Federalists agreed that governmental powers should be limited and that these powers should be subject to internal as well as external checks.

There was never any doubt in their minds that they should create a government of “delegated and enumerated” powers . . .

It is important to emphasize that the Framers settled on an arrangement that divided yet blended the legislative, executive, and judicial powers. This facilitates interdepartmental checking while promoting mature deliberation. Their aim was to create a decent and competent democracy, something beyond mere non-tyrannical government. They placed the whole of the government, and even the people, under constitutional limitations. The Constitution is the supreme law of the land, not the enactments of Congress or the order of the president or the momentary will of the people. As Chief Justice Marshall declared in *Marbury v. Madison* (1803), “The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation.” Even the

desires of the people are held in check by the Constitution. The political system still meets the criteria of democratic government, however, since the people hold the power, through their representatives, to amend the Constitution.

The paradigm of constitutional government embraced by the American people in 1787, that is, limited government based on the consent of the people and committed to the protection of fundamental rights, has become the dominant model throughout the world. The rhetoric of rights, whether couched in the language of natural rights or human rights, is universally appealing. Also universally accepted is the argument that rights are most secure when governmental powers are limited in scope and subject to internal and external checks.

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INTRODUCTORY ESSAY: EXPLAINING THE FOUNDING



In 1760, what was to become the United States of America consisted of a small group of colonies strung out along the eastern seaboard of North America. Although they had experienced significant economic and demographic growth in the eighteenth century and had just helped Britain defeat France and take control of most of North America, they remained politically and economically dependent upon London. Yet, in the next twenty-five years, they would challenge the political control of Britain, declare independence, wage a bloody war, and lay the foundations for a trans-continental, federal republican state. In these crucial years, the colonies would be led by a new generation of politicians, men who combined practical political skills with a firm grasp of political ideas. In order to better understand these extraordinary events, the Founders who made them possible, and the new Constitution that they created, it is necessary first to understand the political ideas that influenced colonial Americans in the crucial years before the Revolution.



“Parliaments and Juries.” “By the first,” Penn argued, “the subject has a share by his chosen Representatives in the Legislative (or Law making) Power.” Penn felt that the granting of consent through Parliament was important because it ensured that “no new Laws bind the People of England, but such as are by common consent agreed on in that great Council.”

In Penn’s view, juries were an equally important means of limiting arbitrary power. By serving on juries, Penn argued, every freeman “has a share in the *Executive* part of the Law, no Causes being tried, nor any man adjudged to loose [*sic*] Life, member or Estate, but upon the *Verdict* of his Peers or Equals.” For Penn, “These two grand Pillars of English Liberty” were “the *Fundamental vital Priviledges* [*sic*]” of Englishmen.

The other aspect of their government that seventeenth-century Englishmen celebrated was a system that was ruled by laws and not by men. As Penn rather colorfully put it: “In France, and other Nations, the meer [*sic*] Will of the Prince is Law, his Word takes off any mans Head, imposeth Taxes, or seizes a mans Estate, when, how and as often as he lists; and if one be accused [*sic*], or but so much as suspected of any Crime, he may either presently Execute him, or banish, or Imprison him at pleasure.” By contrast, “*In England*,” Penn argued, “the Law is both the measure and the bound of every Subject’s Duty and Allegiance, each man having a fixed Fundamental-Right born with him, as to Freedom of his Person and Property in his Estate, which he cannot be deprived of, but either by his Consent, or some Crime, for which the Law has impos’d such a penalty or forfeiture.”

This common law view of politics understood political power as fundamentally *limited* by Englishmen’s rights and privileges. As a result, it held that English kings were bound to rule according to known laws and by respecting the inherent rights of their subjects. It also enshrined the concept of consent as the major means to the end of protecting these rights. According to Penn and his contemporaries, this system of government—protecting as it did the “unparallel’d

THE COMMON LAW AND THE RIGHTS OF ENGLISHMEN

The political theory of the American colonists in the seventeenth and eighteenth centuries was deeply influenced by English common law and its idea of rights. In a guide for religious dissenters written in the late seventeenth century, William Penn, the founder of Pennsylvania, offered one the best contemporary summaries of this common-law view of rights. According to Penn, all Englishmen had three central rights or privileges by common law: those of life, liberty, and property. For Penn, these English rights meant that every subject was “to be freed in Person & Estate from Arbitrary Violence and Oppression.” In the widely used language of the day, these rights of “Liberty and Property” were an Englishman’s “Birthright.”

In Penn’s view, the English system of government preserved liberty and limited arbitrary power by allowing the subjects to express their *consent* to the laws that bound them through two institutions:

Privilege [*sic*] of Liberty and Property”—had made the English nation “more free and happy than any other People in the World.”

The Founders imbibed this view of English rights through the legal training that was common for elites in the eighteenth-century Anglo-American world. This legal education also made them aware of the history of England in the seventeenth century, a time when the Stuart kings had repeatedly threatened their subjects’ rights. In response, many Englishmen drew on the common law to argue that all political power, even that of a monarch, should be limited by law. Colonial Americans in the eighteenth century viewed the defeat of the Stuarts and the subsequent triumph of Parliament (which was seen as the representative of subjects’ rights) in the Glorious Revolution of 1688 as a key moment in English history. They believed that it had enshrined in England’s unwritten constitution the rule of law and the sanctity of subjects’ rights. This awareness of English history instilled in the Founders a strong fear of arbitrary power and a consequent desire to create a constitutional form of government that limited the possibility of rulers violating the fundamental liberties of the people.

The seriousness with which the colonists took these ideas can be seen in their strong opposition to Parliament’s attempt to tax or legislate for them without their consent in the 1760s and 1770s. After the Revolution, when the colonists formed their own governments, they wrote constitutions that included many of the legal guarantees that Englishmen had fought for in the seventeenth century as a means of limiting governmental power. As a consequence, both the state and federal constitutions typically contained bills of rights that enshrined core English legal rights as fundamental law.

NATURAL RIGHTS

The seventeenth century witnessed a revolution in European political thought, one that was to prove profoundly influential on the political ideas of the American Founders. Beginning with the Dutch writer Hugo Grotius in the early 1600s, several important European thinkers began to construct a new understanding of political theory that argued that all men by *nature* had equal rights, and that governments were formed for the sole purpose of protecting these natural rights.

The leading proponent of this theory in the English-speaking world was John Locke (1632–1704). Deeply involved in the opposition to the Stuart kings in the 1670s and 1680s, Locke wrote a book on political theory to justify armed resistance to Charles II and his brother James. “To understand political power right,” Locke wrote, “and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.” For Locke, the state of nature was “a state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another.”

The political theory of the American colonists in the seventeenth and eighteenth centuries was deeply influenced by English common law and its idea of rights.

Although this pregovernmental state of nature was a state of perfect freedom, Locke contended that it also lacked an impartial judge or umpire to regulate disputes among

men. As a result, men in this state of nature gathered together and consented to create a government in order that their natural rights would be better secured. Locke further argued that, because it was the people who had created the government, the people had a right to resist its authority if it violated their rights. They could then join together and exercise their collective or popular sovereignty to create a new government of their own devising. This revolutionary political theory meant that ultimate political authority belonged to the people and not to the king.

This idea of natural rights became a central component of political theory in the American colonies in the eighteenth century, appearing in numerous political pamphlets, newspapers, and sermons. Its emphasis on individual freedom and government by consent combined powerfully with the older idea of common law rights to shape the political theory of the Founders. When faced with the claims of the British Parliament in the 1760s and 1770s to legislate for them without their consent, American patriots invoked both the common law and Lockean natural rights theory to argue that they had a right to resist Britain.

Thomas Jefferson offers the best example of the impact that these political ideas had on the founding. As he so eloquently argued in the Declaration of Independence: “We hold these

truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundations on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”

This idea of natural rights also influenced the course of political events in the crucial years after 1776. All the state governments put this new political theory into practice, basing their authority on the people, and establishing written constitutions that protected natural rights. As George Mason, the principal author of the influential Virginia Bill of Rights (1776), stated in the document’s first section: “All men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.” The radical implications of this insistence on equal natural rights would slowly become apparent in postrevolutionary American society as previously downtrodden groups began to invoke these ideals to challenge slavery, argue for a wider franchise, end female legal inequality, and fully separate church and state.

In 1780, under the influence of John Adams, Massachusetts created a mechanism by which the people themselves could exercise their sovereign power to constitute governments: a special convention convened solely for the purpose of writing a constitution, followed by a process of ratification. This American innovation allowed the ideas of philosophers like Locke to be put into practice. In particular, it made the people’s natural rights secure by enshrining them in a constitution which was not changeable by ordinary legislation. This method was to influence the authors of the new federal Constitution in 1787.

RELIGIOUS TOLERATION AND THE SEPARATION OF CHURCH AND STATE

A related development in seventeenth-century European political theory was the emergence of arguments for religious toleration and the separation of church and state. As a result of the bloody religious wars between Catholics and Protestants that followed the Reformation, a few thinkers in both England and Europe argued that governments should not attempt to force individuals to conform to one form of worship. Rather, they insisted that such coercion was both unjust and dangerous. It was unjust because true faith required voluntary belief; it was dangerous because the attempts to enforce religious beliefs in Europe

had led not to religious uniformity, but to civil war. These thinkers further argued that if governments ceased to enforce religious belief, the result would be civil peace and prosperity.

Once again the English philosopher John Locke

played a major role in the development of these new ideas. Building on the work of earlier writers, Locke published in 1689 *A Letter Concerning Toleration*, in which he contended that there was a natural right of conscience that no government could infringe. As he put it: “The care of Souls cannot belong to the Civil Magistrate, because his Power consists only in outward force; but true and saving Religion consists in the inward persuasion [*sic*] of the Mind, without which nothing can be acceptable to God. And such is the nature of the Understanding, that it cannot be compell’d to the belief of any thing by outward force. Confiscation of Estate, Imprisonment, Torments, nothing of that nature can have any such Efficacy as to make Men change the inward Judgment that they have formed of things.”

These ideas about the rights of conscience and religious toleration resonated powerfully in the English colonies in America. Although the Puritans in the seventeenth century had originally attempted to set up an intolerant commonwealth where unorthodox religious belief would be prohibited, dissenters like Roger Williams challenged them and argued that true faith could not be the product of coercion. Forced to flee by the Puritans, Williams established the colony of Rhode Island, which offered religious toleration to all and had no state-supported church. As the Puritan Cotton Mather sarcastically remarked,

Natural rights became a central component of political theory in the American colonies . . . , appearing in numerous political pamphlets, newspapers, and sermons.

Rhode Island contained “everything in the world but Roman Catholics and real Christians.” In addition, Maryland, founded in the 1630s, and Pennsylvania, founded in the 1680s, both provided an extraordinary degree of religious freedom by the standard of the time.

In the eighteenth century, as these arguments for religious toleration spread throughout the English-speaking Protestant world, the American colonies, becoming ever more religiously pluralistic, proved particularly receptive to them. As a result, the idea that the government should not enforce religious belief had become an important element of American political theory by the late eighteenth century. After the Revolution, it was enshrined as a formal right in many of the state constitutions, as well as most famously in the First Amendment to the federal Constitution.

By reading the classics, the American Founders were introduced to an alternate political vision, one that legitimated republicanism.

COLONIAL SELF-GOVERNMENT

The political thinking of the Founders in the late eighteenth century was also deeply influenced by the long experience of colonial self-government. Since their founding in the early seventeenth century, most of the English colonies in the Americas (unlike the French and Spanish colonies) had governed themselves to a large extent in local assemblies that were modeled on the English Parliament. In these colonial assemblies they exercised their English common law right to consent to all laws that bound them.

The existence of these strong local governments in each colony also explains in part the speed with which the Founders were able to create viable independent republican governments in the years after 1776. This long-standing practice of self-government also helped to create an indigenous political class in the American colonies with the requisite experience for the difficult task of nation building.

In addition to the various charters and royal instructions that governed the English colonies, Americans also wrote their own Founding documents. These settler covenants were an early type of written constitution and they provided an important model for the Founders in the late eighteenth century as they sought to craft a new constitutional system based on popular consent.

CLASSICAL REPUBLICANISM

Not all the intellectual influences on the Founders originated in the seventeenth century. Because many of the Founders received a classical education in colonial colleges in the eighteenth century, they were heavily influenced by the writings of the great political thinkers and historians of ancient Greece and Rome.

Antiquity shaped the Founders’ political thought in several important ways. First, it introduced them to the idea of republicanism, or government by the people. Ancient political thinkers from Aristotle to Cicero had praised republican self-government as the best political system. This classical political thought was important for the Founders as it gave them grounds to dissent from the heavily monarchical political culture of eighteenth-century England, where even the common law jurists who defended subjects’ rights against royal power believed strongly in monarchy. By reading the classics, the American Founders were introduced to an alternate political vision, one that legitimized republicanism.

The second legacy of this classical idea of republicanism was the emphasis that it put on the moral foundations of liberty. Though ancient writers believed that a republic was the best form of government, they were intensely aware of its fragility. In particular, they argued that because the people governed themselves, republics required for their very survival a high degree of civic virtue in their citizenry. Citizens had to be able to put the good of the whole (the *res publica*) ahead of their own private interests. If they failed to do this, the republic would fall prey to men of power and ambition, and liberty would ultimately be lost.

As a result of this need for an exceptionally virtuous citizenry, ancient writers also taught that republics had to be small. Only in a small and relatively homogeneous society, they argued, would the necessary degree of civic virtue be forthcoming. In part, it was this classical teaching about the weakness of large republics that animated the contentious debate over the proposed federal Constitution in the 1780s.

In addition to their reading of ancient authors, the Founders also encountered republican ideas in

the political theory of a group of eighteenth-century English writers called the “radical Whigs.” These writers kept alive the republican legacy of the English Civil War at a time when most Englishmen believed that their constitutional monarchy was the best form of government in the world. Crucially for the Founding, these radical Whigs combined classical republican thought with the newer Lockean ideas of natural rights and popular sovereignty. They thus became an important conduit for a modern type of republicanism to enter American political thought, one that combined the ancient concern with a virtuous citizenry and the modern insistence on the importance of individual rights.

These radical Whigs also provided the Founders with an important critique of the eighteenth-century British constitution. Instead of seeing it as the best form of government possible, the radical Whigs argued that it was both corrupt

and tyrannical. In order to reform it, they called for a written constitution and a formal separation of the executive branch from the legislature. This classically inspired radical Whig constitutionalism was an important influence on the development of American republicanism in the late eighteenth century.

CONCLUSION

Drawing on all these intellectual traditions, the Founders were able to create a new kind of republicanism in America based on equal rights, consent, popular sovereignty, and the separation of church and state. Having set this broad context for the Founding, we now turn to a more detailed examination of important aspects of the Founders’ political theory, followed by detailed biographical studies of the Founders themselves.

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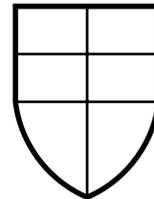
Suggestions for Further Reading

- Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge, Mass.: Harvard University Press, 1967.
- Lutz, Donald. *Colonial Origins of the American Constitution: A Documentary History*. Indianapolis, Ind.: Liberty Fund, 1998.
- Reid, John Phillip. *The Constitutional History of the American Revolution*. Abridged Edition. Madison: The University of Wisconsin Press, 1995.
- Rossiter, Clinton. *Seedtime of the Republic: The Origins of the American Tradition of Political Liberty*. New York: Harcourt Brace, 1953.
- Zuckert, Michael. *Natural Rights and the New Republicanism*. Princeton, N.J.: Princeton University Press, 1994.

ADDITIONAL CLASSROOM ACTIVITIES

Visual Assessment

1. **Founders Posters**—Have students create posters for either an individual Founder, a group of Founders, or an event. Ask them to include at least one quotation (different from classroom posters that accompany this volume) and one image.
2. **Coat of Arms**—Draw a coat of arms template and divide into 6 quadrants (see example). Photocopy and hand out to the class. Ask them to create a coat of arms for a particular Founder with a different criterion for each quadrant (e.g., occupation, key contribution, etc.). Include in the assignment an explanation sheet in which they describe why they chose certain colors, images, and symbols.
3. **Individual Illustrated Timeline**—Ask each student to create a visual timeline of at least ten key points in the life of a particular Founder. In class, put the students in groups and have them discuss the intersections and juxtapositions in each of their timelines.
4. **Full Class Illustrated Timeline**—Along a full classroom wall, tape poster paper in one long line. Draw in a middle line and years (i.e., 1760, 1770, 1780, etc.). Put students in pairs and assign each pair one Founder. Ask them to put together ten key points in the life of the Founder. Have each pair draw in the key points on the master timeline.
5. **Political Cartoon**—Provide students with examples of good political cartoons, contemporary or historical. A good resource for finding historical cartoons on the Web is <http://www.boondocksnet.com/gallery/political_cartoons.html>. Ask them to create a political cartoon based on an event or idea in the Founding period.



Performance Assessments

1. **Meeting of the Minds**—Divide the class into five groups and assign a Founder to each group. Ask the group to discuss the Founder's views on a variety of pre-determined topics. Then, have a representative from each group come to the front of the classroom and role-play as the Founder, dialoguing with Founders from other groups. The teacher will act as moderator, reading aloud topic questions (based on the pre-determined topics given to the groups) and encouraging discussion from the students in character. At the teacher's discretion, questioning can be opened up to the class as a whole. For advanced students, do not provide a list of topics—ask them to know their character well enough to present him properly on all topics.
2. **Create a Song or Rap**—Individually or in groups, have students create a song or rap about a Founder based on a familiar song, incorporating at least five key events or ideas of the Founder in their project. Have students perform their song in class. (Optional: Ask the students to bring in a recording of the song for background music.)

Web/Technology Assessments

1. **Founders PowerPoint Presentation**—Divide students into groups. Have each group create a PowerPoint presentation about a Founder or event. Determine the number of slides, and assign a theme to each slide (e.g., basic biographic information, major contributions, political philosophy, quotations, repercussions of the event, participants in the event, etc.). Have them hand out copies of the slides and give the presentation to the class. You may also ask for a copy of the

presentation to give you the opportunity to combine all the presentations into an end-of-semester review.

2. **Evaluate Web sites**—Have students search the Web for three sites related to a Founder or the Founding period (you may provide them with a “start list” from the resource list at the end of each lesson). Create a Web site evaluation sheet that includes such questions as: Are the facts on this site correct in comparison to other sites? What sources does this site draw on to produce its information? Who are the main contributors to this site? When was the site last updated? Ask students to grade the site according to the evaluation sheet and give it a grade for reliability, accuracy, etc. They should write a 2–3 sentence explanation for their grade.
3. **Web Quest**—Choose a Web site(s) on the Constitution, Founders, or Founding period. (See suggestions below.) Go to the Web site(s) and create a list of questions taken from various pages within the site. Provide students with the Web address and list of questions, and ask them to find answers to the questions on the site, documenting on which page they found their answer. Web site suggestions:
 - The Avalon Project <<http://www.yale.edu/lawweb/avalon/avalon.htm>>
 - The Founders’ Constitution <<http://press-pubs.uchicago.edu/founders/>>
 - Founding.com <<http://www.founding.com/>>
 - National Archives Charters of Freedom <http://www.archives.gov/national_archives_experience/charters.html>
 - The Library of Congress American Memory Page <<http://memory.loc.gov/>>
 - Our Documents <<http://www.ourdocuments.gov/>>
 - Teaching American History <<http://www.teachingamericanhistory.org/>>

A good site to help you construct the Web Quest is: <<http://trackstar.hprtec.org>>

Verbal Assessments

1. **Contingency in History**—In a one-to-two page essay, have students answer the question, “How would history have been different if [Founder] had not been born?” They should consider repercussions for later events in the political world.
2. **Letters Between Founders**—Ask students to each choose a “Correspondence Partner” and decide which two Founders they will be representing. Have them read the appropriate Founders essays and primary source activities. Over a period of time, the pair should then write at least three letters back and forth (with a copy being given to the teacher for review and feedback). Instruct them to be mindful of their Founders’ tone and writing style, life experience, and political views in constructing the letters.
3. **Categorize the Founders**—Create five categories for the Founders (e.g., slaveholders vs. non-slaveholders, northern vs. southern, opponents of the Constitution vs. proponents of the Constitution, etc.) and a list of Founders studied. Ask students to place each Founder in the appropriate category. For advanced students, ask them to create the five categories in addition to categorizing the Founders.
4. **Obituaries and Gravestones**—Have students write a short obituary or gravestone engraving that captures the major accomplishments of a Founder (e.g., Thomas Jefferson’s gravestone). Ask them to consider for what the Founder wished to be remembered.
5. **“I Am” Poem**—Instruct students to select a Founder and write a poem that refers to specific historical events in his life (number of lines at the teacher’s discretion).

ADDITIONAL CLASSROOM ACTIVITIES

Each line of the poem must begin with “I” (i.e., “I am...,” “I wonder...,” “I see...,” etc.). Have them present their poem with an illustration of the Founder.

6. **Founder’s Journal**—Have students construct a journal of a Founder at a certain period in time. Ask them to pick out at least five important days. In the journal entry, make sure they include the major events of the day, the Founder’s feelings about the events, and any other pertinent facts (e.g., when writing a journal about the winter at Valley Forge, Washington may have included information about the troops’ morale, supplies, etc.).
7. **Résumé for a Founder**—Ask students to create a resume for a particular Founder. Make sure they include standard resume information (e.g., work experience, education, skills, accomplishments/honors, etc.). You can also have them research and bring in a writing sample (primary source) to accompany the resume.
8. **Cast of Characters**—Choose an event in the Founding Period (e.g., the signing of the Declaration of Independence, the debate about the Constitution in a state ratifying convention, etc.) and make a list of individuals related to the incident. Tell students that they are working for a major film studio in Hollywood that has decided to make a movie about this event. They have been hired to cast actors for each part. Have students fill in your list of individuals with actors/actresses (past or present) with an explanation of why that particular actor/actress was chosen for the role. (Ask the students to focus on personality traits, previous roles, etc.)

Review Activities

1. **Founders Jeopardy**—Create a Jeopardy board on an overhead sheet or handout (six columns and five rows). Label the column heads with categories and fill in all other squares with a dollar amount. Make a sheet that corresponds to the Jeopardy board with the answers that you will be revealing to the class. (Be sure to include Daily Doubles.)
 - a. Possible categories may include:
 - Thomas Jefferson (or the name of any Founder)
 - Revolutionary Quirks (fun Founders facts)
 - Potpourri (miscellaneous)
 - Pen is Mightier (writings of the Founders)
 - b. Example answers:
 - This Founder drafted and introduced the first formal proposal for a permanent union of the thirteen colonies. *Question: Who is Benjamin Franklin?*
 - This Founder was the only Roman Catholic to sign the Declaration of Independence. *Question: Who is Charles Carroll?*
2. **Who Am I?**—For homework, give each student a different Founder essay. Ask each student to compile a list of five-to-ten facts about his/her Founder. In class, ask individuals to come to the front of the classroom and read off the facts one at a time, prompting the rest of the class to guess the appropriate Founder.
3. **Around the World**—Develop a list of questions about the Founders and plot a “travel route” around the classroom in preparation for this game. Ask one student to volunteer to go first. The student will get up from his/her desk and “travel” along the route plotted to an adjacent student’s desk, standing next to it. Read a question aloud, and the first student of the two to answer correctly advances to the next stop on the travel route. Have the students keep track of how many places they advance. Whoever advances the furthest wins.

AN EIGHTEENTH-CENTURY GLOSSARY

Common Good: General conditions that are equally to everyone’s advantage. In a **republic**, held to be superior to the good of the individual, though its attainment ought never to violate the **natural rights** of any individual.

Democracy: From the Greek, *demos*, meaning “rule of the people.” Had a negative connotation among most Founders, who equated the term with mob rule. The Founders considered it to be a form of government into which poorly-governed **republics** degenerated.

English Rights: Considered by Americans to be part of their inheritance as Englishmen; included such rights as property, petition, and trials by jury. Believed to exist from time immemorial and recognized by various English charters as the Magna Carta, the Petition of Right of 1628, and the English Bill of Rights of 1689.

Equality: Believed to be the condition of all people, who possessed an equality of rights. In practical matters, restricted largely to land-owning white men during the Founding Era, but the principle worked to undermine ideas of deference among classes.

Faction: A small group that seeks to benefit its members at the expense of the **common good**. The Founders discouraged the formation of factions, which they equated with political parties.

Federalism: A political system in which power is divided between two levels of government, each supreme in its own sphere. Intended to avoid the concentration of power in the central government and to preserve the power of local government.

Government: Political power fundamentally limited by citizens’ rights and privileges. This limiting was accomplished by written charters or constitutions and bills of rights.

Happiness: The ultimate end of government. Attained by living in **liberty** and by practicing **virtue**.

Inalienable Rights: Rights that can never justly be taken away.

Independence: The condition of living in **liberty** without being subject to the unjust rule of another.

Liberty: To live in the enjoyment of one’s rights without dependence upon anyone else. Its enjoyment led to **happiness**.

Natural Rights: Rights individuals possess by virtue of their humanity. Were thought to be “**inalienable**.” Protected by written constitutions and bills of rights that restrained government.

Property: Referred not only to material possessions, but also to the ownership of one’s body and rights. Jealously guarded by Americans as the foundation of liberty during the crisis with Britain.

Reason: Human intellectual capacity and rationality. Believed by the Founders to be the defining characteristic of humans, and the means by which they could understand the world and improve their lives.

Religious Toleration: The indulgence shown to one religion while maintaining a privileged position for another. In pluralistic America, religious uniformity could not be enforced so religious toleration became the norm.

Representation: Believed to be central to republican government and the preservation of **liberty**. Citizens, entitled to vote, elect officials who are responsible to them, and who govern according to the law.

Republic: From the Latin, *res publica*, meaning “the public things.” A government system in which power resides in the people who elect representatives responsible to them and who govern according to the law. A form of government dedicated to promoting the **common good**. Based on the people, but distinct from a **democracy**.

Separation of Church and State: The doctrine that government should not enforce religious belief. Part of the concept of **religious toleration** and freedom of conscience.

Separation of Powers/Checks and Balances: A way to restrain the power of government by balancing the interests of one section of government against the competing interests of another section. A key component of the federal Constitution. A means of slowing down the operation of government, so it did not possess too much energy and thus endanger the rights of the people.

Slavery: Referred both to chattel slavery and political slavery. Politically, the fate that befell those who did not guard their rights against governments. Socially and economically, an institution that challenged the belief of the Founders in **natural rights**.

Taxes: Considered in English tradition to be the free gift of the people to the government. Americans refused to pay them without their consent, which meant actual **representation** in Parliament.

Tyranny: The condition in which **liberty** is lost and one is governed by the arbitrary will of another. Related to the idea of political **slavery**.

Virtue: The animating principle of a **republic** and the quality essential for a republic’s survival. From the Latin, *vir*, meaning “man.” Referred to the display of such “manly” traits as courage and self-sacrifice for the **common good**.

ANSWER KEY

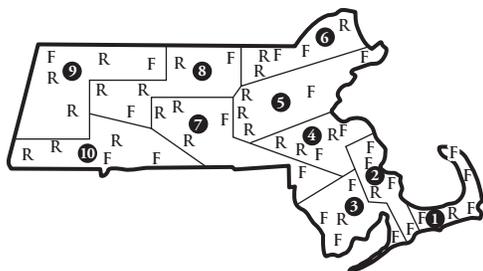
that the state should approve the Constitution only on the condition that amendments would be added as soon as possible.

3. During his second term as governor of Massachusetts, Gerry approved a redistricting plan that gave an electoral advantage to Republicans. One of the districts resembled a salamander, so Federalists termed the practice “gerrymandering.”
4. Answers will vary. Students could mention the X, Y, Z Affair and Gerry’s decision to stay behind in France after he and his fellow delegates were asked to bribe French officials. This led to criticism of him by Federalists. Students could also mention Governor Gerry’s attempt to ensure the election of Republicans to the state senate through the tactic of “gerrymandering.” The unpopularity of this tactic contributed to Gerry’s defeat in the next election for governor.
5. Answers will vary. In regard to politics, students should mention that Gerry was active in the patriot movement and sympathetic to the idea of independence. In regard to personality, students should mention that Gerry was a stubborn and difficult man who lacked a sense of humor and seemed to enjoy arguing.

Handout B—By His Own Hand: Elbridge Gerry and Gerrymandering
Below are two examples of how students could draw district boundaries so as to favor one party.

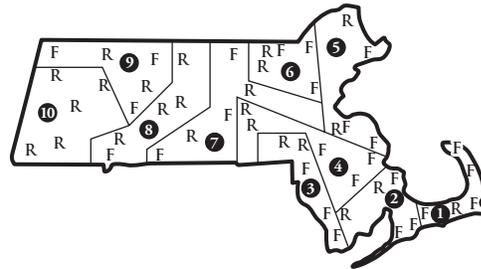
Example A: Republicans are favored in 7 out of 10 districts.

- Federalist Districts = 1, 2, 3
- Republican Districts = 4, 5, 6, 7, 8, 9, 10



Example B: Federalists are favored in 8 out of 10 districts.

- Federalist Districts = 1, 2, 3, 4, 5, 6, 7, 9
- Republican Districts = 8, 10



PATRICK HENRY

Handout A—Patrick Henry (1736–1799)

1. Saying he “smelled a rat,” Henry feared that the meeting was a plot by the powerful to construct a strong central government of which they would be the masters.
2. Henry warned that the new Constitution would create a “consolidated” government in which power would be concentrated in the hands of a few. The document did not provide for adequate checks and balances and therefore did not protect the people against evil rulers. It gave the central government the dangerous power of direct taxation. It created a standing army, which a power-hungry president could use to awe the people into submission. It also lacked a bill of rights.
3. He disliked Thomas Jefferson and James Madison, the founders of the party. Also, as a devout Christian, Henry was disgusted by the party’s approval of the atheistic French Revolution.
4. In both cases, Henry questioned the right of the British government to interfere in Virginia’s affairs. In the Parson’s Cause, Henry denounced the king’s repeal of the Two-Penny Act as “an instance of misrule” and perhaps tyranny. During the Stamp Act Crisis, Henry asserted that “the General Assembly of this

ANSWER KEY

Colony have the only and sole exclusive Right & Power to lay . . . taxes upon the Inhabitants of this Colony.”

- Answers will vary, but students should recognize that Henry’s speech was a defiant call for armed resistance to British forces. He declared that war, in effect, had already begun.

Handout B—Context Questions

- The document was written in 1788.
- It was written in Virginia.
- Patrick Henry wrote the document.
- The document is a speech.
- Henry wrote the speech to convince the Virginia delegates to oppose ratification of the Constitution.
- The audience for this speech was the Virginia delegates in particular, but also the people of all the states.

Handout C—In His Own Words: Patrick Henry on the Constitution

Main idea of each passage:

- Majority Rule:** Henry favors majority rule and democratic government. He argues that under the new Constitution, a small minority of Americans could thwart the will of the majority by refusing to ratify a proposed amendment. For example, four small states—such as New Jersey, Rhode Island, Connecticut, and New Hampshire—containing only five to ten percent of the total population of the country could block approval of an amendment favored by the remaining nine more populous states.
- A Standing Army:** Henry argues that the Constitution will create a standing army that the government will use to crush any opposition to its exercise of power. The militia will be powerless to stop it. Henry warns that the seat of government will become an armed fortress used by this army.
- Liberty vs. Empire:** Henry laments the fact that Americans seem to favor the

building of a great empire, which will come at the expense of their liberty.

- Good and Bad Rulers:** Henry argues that the Constitution does not include sufficient safeguards against the abuse of power by evil officeholders.
- The President, a Tyrant:** Henry cautions that the presidency is poorly designed and that a power-hungry occupant of that office will be able to use the standing army and the militia to establish tyranny.

THOMAS JEFFERSON

Handout A—Thomas Jefferson (1743–1826)

- Jefferson had mixed feelings about slavery. He warned that slavery might one day tear the Union apart. He condemned the slave trade and proposed a plan for ending it. But Jefferson owned more than 200 slaves who lived on and near his great plantation of Monticello, and he freed none of them while he lived. He did provide in his will for the emancipation of seven of his slaves, including Sally Hemings (the slave with whom Jefferson is alleged to have had a sexual relationship), her five children, and her nephew.
- While he was president, Jefferson reduced the number of public employees, cut military spending, and lowered the national debt.
- Jefferson championed the right to bear arms, religious freedom, the rights of people accused of crimes, and the right to property.
- Answers will vary. Some students will point out the contradictions between Jefferson’s opinions and his actions. For example, he condemned the slave trade, warned that slavery might one day tear the Union apart, and proposed a plan for ending slavery in the United States. But he owned more than 200 slaves who